

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor,

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

CAROL L. KAMENSTEIN, individually and in
her capacity as joint tenant,

Defendant.

Adv. Pro. No. 10-04469 (CGM)

**STIPULATION AND ORDER FOR VOLUNTARY
DISMISSAL OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Carol L. Kamenstein, (“Defendant”) by and

through her counsel, Helen Davis Chaitman of Chaitman LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On November 30, 2010, the Trustee filed and served the Complaint against the Defendant.

2. On November 12, 2010, the Court entered an order (the “Settlement Procedures Order”, ECF No. 3181), authorizing the Trustee to enter into settlement agreements consensually resolving adversary proceedings against transferees that received avoidable transfers without Bankruptcy Court approval, subject to the limitations and procedures set forth therein. Pursuant to the Settlement Procedures Order, the Trustee may enter into such settlements without further order of the Bankruptcy Court in adversary proceedings involving avoidable transfers up to Twenty Million United States Dollars (\$20,000,000.00).

3. On August 13, 2015, Defendants filed an Answer to Trustee’s Complaint and the Parties commenced discovery, which was completed on December 16, 2019.

4. On August 11, 2020, the Trustee filed a Notice of Mediation Referral and Mediator Selection (Adv. Pro. No. 10-04469, ECF No. 91), and the mediation was held on August 20, 2020 without a settlement between the Parties.

5. The Mediator’s Final Report was filed on August 28, 2020.

6. On November 25, 2020, the Defendant filed a Motion for Summary Judgment, supporting memorandum, statement of material facts and declarations. [Dkt Nos. 99-106]. On October 2, 2020, Defendants filed a Cross Motion for Summary Judgment, supporting memorandum, statements of material facts and declaration. [Dkt. Nos. 114-121]. On December 22, 2020, the Trustee filed a Cross-Motion for Summary Judgment, supporting memorandum,

counterstatement of material facts and declarations [Dkt. Nos. 124-130]. The motions are currently scheduled for hearing on January 27, 2021.

7. On January 19, 2021, the Parties entered into a settlement agreement pursuant to the Settlement Procedures Order.

8. In light of the Parties' settlement agreement the motion and cross-motion for summary judgment are now moot.

9. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee's claims against Defendant in the above-captioned adversary proceeding, and dismissal of the adversary proceeding, without prejudice, reserving the Trustee's right to seek an ex parte filing of a declaration regarding default in payments by the Trustee or his attorney of record to reopen the adversary proceeding to enter judgment in the event of an uncured default.

10. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

11. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the

same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation shall be deemed an original.

Dated: January 26, 2021
New York, New York

BAKER & HOSTETLER LLP

By: s/ Nicholas J. Cremona
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Nicholas J. Cremona
Email: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

CHAITMAN LLP

By: /s/ Helen Davis Chaitman
Helen Davis Chaitman
465 Park Avenue
New York, New York 10022
Phone & Fax : (888) 759-1114
Email: hchaitman@chaitmanllp.com

Attorney for Defendant

**Dated: January 27, 2021
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge**